



1022559

HOLLAND & HART
THE LAW OUT WEST



Paul D. Phillips
Phone (303) 295-8131
pphillips@hollandhart.com

April 25, 2006

Matthew Cohn, Esq.
United States Environmental Protection Agency
Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

Re: Vermiculite Intermountain Superfund Site – Salt Lake City, Utah

Dear Matt:

We continue to work to be responsive to your April 5, 2006 letter to the PRPs at the Vermiculite Intermountain ("VI") Site. On April 10, we sent you a letter apprising you of the results of our ongoing research into certain key ownership factors related to the VI Site and the Van Cott 401(k) and Profit Sharing Plan ("Van Cott Trust"), which formerly held an interest in the VI Site in its fiduciary capacity. We remain interested in attempting to reach a reasonable resolution of this matter among the PRPs and with EPA.

However, in addition to the factors and constraints outlined in our April 10th letter, you should also be aware that the Employee Benefits Security Administration, a division of the U.S. Department of Labor ("DOL"), is in the process of conducting a field audit of the Van Cott Trust, with particular focus on the claims being asserted by EPA regarding the VI Site. To date, the Van Cott Trust has provided requested documentation to the DOL, and the DOL has conducted on-site interviews of certain individuals associated with the operations of the Van Cott Trust. DOL representatives have informed the Van Cott Trust that, due to the nature of the EPA claims and the DOL's view that plan assets (such as those held by the Van Cott Trust) may not be subject to alienation or attachment, further examination of the Van Cott Trust and the EPA claims will be conducted by the DOL Office of Enforcement from Washington, D.C.

We have informed DOL representatives of the May 5th deadline in your April 5th letter, and they have indicated that the time frame to complete their analysis and evaluation extends beyond that date. DOL has also expressed an interest in being involved in any further settlement discussions, and possibly arranging a meeting with DOL, EPA, and Van Cott Trust representatives.

Holland & Hart

Phone (303) 295-8000 Fax (303) 295-8261 www.hollandhart.com

555 17th Street Suite 3200 Denver, CO 80202 Mailing Address P.O. Box 8749 Denver, CO 80201-8749

Aspen Billings Boise Boulder Cheyenne Colorado Springs Denver Denver Tech Center Jackson Hole Salt Lake City Santa Fe Washington, D.C. ☐

We are informing you of these facts because it is becoming increasingly clear that the complications added by ERISA and the ongoing DOL field audit make it impossible to reach a resolution and settlement of all issues on or before May 5th, as suggested in your April 5th letter. We respectfully request that EPA consider extending that deadline by at least 90 days in order to allow the DOL time to review and address the facts and the law and for the necessary interchange to occur. We look forward to hearing your response to this request.

Sincerely yours,

A handwritten signature in cursive script that reads "Paul D. Phillips".

Paul D. Phillips
of Holland & Hart LLP

PDP:dc

cc: Michael Keller, Esq.
Van Cott Trust
Brian W. Burnett, Esq.
W. Waldan Lloyd, Esq.
Kevin R. Murray, Esq.
Robin Main, Esq.
Kelcey Land
Doug L. Abbott, Esq.